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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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02/12/2001

Martin Sommer

SGW-109

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7590

10/20/2006

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EXAMINER

CHEVALIER, ALICIA ANN

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 10/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/780,618

Applicant(s)

SOMMER ET AL.

Examiner

Alicia Chevalier

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1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30,31,33-51 and 53-70 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30, 31, 33-51 and 53-70 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

RESPONSE TO AMENDMENT

1. Claims 30, 31, 33-51 and 53-70 are pending in the application, claims 1-29, 32 and 52 have been cancelled.

REJECTIONS

2. **The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.**

Claim Rejections - 35 USC § 102

3. Claims 30, 31, 33-51 and 53-70 are rejected under 35 U.S.C. 102(b) as being anticipated by Pace (U.S. Patent No. 5,866,441).

Pace discloses a molded element (*chip, col. 6, line 66*) that comprises brittle-fracture material (*substrate, col. 7, line 1*) with at least one opening (*figure 5a*) that is sealed only with sealing material (*feed-throughs, col. 7, line 2*) which is hermetically sealed (*col. 7, lines 10-11*) to said brittle-fracture material.

The limitation “wherein the brittle-fracture material and the sealing material are permanently bonded together by a pressure weld” is a method limitation and does not determine the patentability of the product, unless the process produces unexpected results. The method of forming the product is not germane to the issue of patentability of the product itself, unless Applicant presents evidence from which the Examiner could reasonably conclude that the claimed product differs in kind from those of the prior art. MPEP 2113. Furthermore, there does

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not appear to be a difference between the prior art structure and the structure resulting from the claimed method because Pace discloses that the brittle fracture material and sealing material are permanently bonded with a hermetic seal.

Pace discloses that the brittle-fracture material is glass, glass ceramic or ceramic (*ceramic or glass/ceramic, col. 7, line 6*). Pace discloses that the sealing material is a metal, a metal alloy or a metal composite (*refractive metal, col. 7, lines 11-12*). Pace discloses that the sealing element is a brittle-fracture (green ceramics, *col. 7, line 13*). Pace discloses that the sealing material has a plate, spherical, conical or cylindrical shape (*figure 5a*). Pace discloses that the brittle-fracture material is a glass plate, and wherein the at least one opening has the shape of a through-going cylindrical opening or through-going conical opening (*figure 5a*).

Regarding the limitation “wherein the brittle-fracture material and the sealing material are bonded by welding by movement” is a method limitation and does not determine the patentability of the product, unless the process produces unexpected results. The method of forming the product is not germane to the issue of patentability of the product itself, unless Applicant presents evidence from which the Examiner could reasonably conclude that the claimed product differs in kind from those of the prior art. MPEP 2113. Furthermore, there does not appear to be a difference between the prior art structure and the structure resulting from the claimed method because Pace discloses that the brittle fracture material and sealing material are bonded with a hermetic seal.

Pace discloses that the brittle-fracture material and/or the sealing material is at least partially coated (*metal layer, col. 7, lines 24-25*). Pace discloses that the sealing material is glass, glass ceramic or ceramic (*green ceramic, col. 7, line 13*).

Regarding the limitation “wherein the brittle-fracture material and the sealing material are bonded by ultrasound weld, high-frequency weld, rotary weld, friction weld, torsional or orbital weld, cold pressure weld or abrasive weld” is a method limitation and does not determine the patentability of the product, unless the process produces unexpected results. The method of forming the product is not germane to the issue of patentability of the product itself, unless Applicant presents evidence from which the Examiner could reasonably conclude that the claimed product differs in kind from those of the prior art. MPEP 2113. Furthermore, there does not appear to be a difference between the prior art structure and the structure resulting from the claimed method because Pace discloses that the brittle fracture material and sealing material are bonded with a hermetic seal.

Pace discloses that the brittle-fracture material and/or the sealing material is at least partially metal- and/or plastic-coated (*metal layer, col. 7, lines 24-25*). Pace discloses a molded element (*chip, col. 6, line 66*) that comprises brittle-fracture material (*substrate, col. 7, line 1*) with at least one opening (*figure 5a*) to a cavity that is sealed only with sealing material (*feed-throughs, col. 7, line 2*) which is hermetically sealed (*col. 7, lines 10-11*) to said brittle-fracture material.

The limitation “wherein the brittle-fracture material and the sealing material are permanently bonded together by a cold pressure weld” is a method limitation and does not determine the patentability of the product, unless the process produces unexpected results. The method of forming the product is not germane to the issue of patentability of the product itself, unless Applicant presents evidence from which the Examiner could reasonably conclude that the claimed product differs in kind from those of the prior art. MPEP 2113. Furthermore, there does

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not appear to be a difference between the prior art structure and the structure resulting from the claimed method because Pace discloses that the brittle fracture material and sealing material are permanently bonded with a hermetic seal.

Pace discloses that the sealing material is a brittle-fracture material (*green ceramic, col. 7, line 13*). Pace discloses that the sealing material is glass, glass ceramic or ceramic (*green ceramic, col. 7, line 13*). Pace discloses that the brittle-fracture material has one opening (*figure 5a*). Pace discloses that the brittle-fracture material has two openings (*figure 5a*).

Pace discloses a molded element (*chip, col. 6, line 66*) that comprises brittle-fracture material (*substrate, col. 7, line 1*) with at least one opening (*figure 5a*) that is sealed only with sealing material (*feed-throughs, col. 7, line 2*) which is hermetically sealed (*col. 7, lines 10-11*) to said brittle-fracture material.

The limitation “wherein the brittle-fracture material and the sealing material are permanently bonded together by a diffusion weld” is a method limitation and does not determine the patentability of the product, unless the process produces unexpected results. The method of forming the product is not germane to the issue of patentability of the product itself, unless Applicant presents evidence from which the Examiner could reasonably conclude that the claimed product differs in kind from those of the prior art. MPEP 2113. Furthermore, there does not appear to be a difference between the prior art structure and the structure resulting from the claimed method because Pace discloses that the brittle fracture material and sealing material are permanently bonded with a hermetic seal.

The preamble “laminated glass system,” “an electrochromic” and “mirror” is deemed to be a statement with regard to the intended use and is not further limiting in so far as the structure

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of the product is concerned. In article claims, a claimed intended use must result in a *structural difference* between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. MPEP § 2111.02.

ANSWERS TO APPLICANT'S ARGUMENTS

4. Applicant's arguments in the response filed August 8, 2006 regarding the previous rejection of record have been carefully considered but are deemed unpersuasive.

Applicant argues that Pace does not teach "consisting of" brittle-fracture material.

While Applicant is correct that Pace's composition does comprise more than a brittle fracture material it is a moot point because Applicant does not claim "consisting of". Specifically, Applicant claims "comprising a brittle-fracture material of the Markush group glass, glass ceramic or ceramic. Therefore for since the claim uses open language the brittle fracture material minimally must contain glass, glass ceramic or ceramic, but may include other substances.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (571) 272-1490. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ac
10/16/06



ALICIA CHEVALIER
PRIMARY EXAMINER